economic terms, in all of the affected cases, the end user is the customer of all the carriers involved, since the end user is originating a call that involves all of their services. And, as noted above, this perspective helps focus upon the *competitive significance* of multi-LEC calls where the LECs are, at least in principle, competing for the same customers.

14. To see that this is so, consider the airline trip described above, from Boston to San Francisco, via Chicago. On that trip, I am a customer of both American and United. Since American also happens to serve the Chicago-to-San Francisco route, my decision to travel on United for that flight segment constitutes a competitive loss to American, which could have had my business had I selected American instead of United for that flight segment. My reasons for selecting United for that second flight segment may have been the movie being shown, the flight time, the food, or perhaps the non-availability of a seat on an American flight at the time that I needed to make the connection. Whatever the reason for my decision, American did not get my business and United did.

15. The relationship of this analogy to the handling of local calls by several different LECs is clear and straightforward. I am the originator of a local call and I pay the entire charge for the local call. Where two carriers are involved, I am the customer of both carriers (in economic terms), just as I am the customer of both airlines. I pay the originating LEC the entire charge for the call; the originating LEC then hands-off the call to the terminating LEC

and remits a portion of my payment to the terminating LEC.[3] To the extent that the originating LEC could have furnished the entire call end-to-end, the fact that a portion is provided by a competing LEC constitutes a competitive loss to the originating LEC, just as my election to fly United for the second segment of my trip to San Francisco constitutes a competitive loss to American Airlines.

16. The portrayal of reciprocal compensation payments by ILECs to CLECs as constituting a "cost" to the ILEC is simply wrong. The $1-billion "cost" that Verizon, for example, contends that it will be required to pay to CLECs as reciprocal compensation[4] constitutes a competitive loss of $1-billion in potential call termination business to Verizon,

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3. ILECs might argue that my airline analogy is off-point in that the payments that ILECs receive from their end-user (call originating) customers may be less than the reciprocal compensation payments they are required to make to interconnecting CLECs. If this is actually the case, and it is far from clear that it is, at least on average, the fundamental problem lies in the ILECs' own local rate structures, not with the reciprocal compensation requirement. ILECs that charge flat monthly rates for local usage are nevertheless being compensated for that usage, except that it is on a fixed monthly amount rather than on a per-minute or per-call amount. Second, the same situation likely exists in the airline industry as well — for example, in the event of a cancelled flight where the original airline is forced to rebook passengers on another carrier, the payment to that carrier for these seats may well exceed the total fare that the passengers being involuntarily rerouted had actually paid for their ticket. Airlines also pay "denied boarding compensation" for overbooked flights where the amounts involved may also exceed the original price of the ticket. Finally, interexchange carriers are sometimes required to pay switched access charges (typically where the LEC is not a BOC) that may also exceed the per-minute rate for the entire end-to-end toll call that the IXC receives. What is relevant is the *average* per-minute revenue received by the LEC and the *average* per-minute cost of handling local calls, including reciprocal compensation remittances where required.

4. Verizon Comments, at 2.

but is in no normal sense a "cost" to Verizon. It simply reflects the fact that Verizon has done a truly terrible job of competing for and retaining the business of ISPs. If the Commission were to determine that Verizon is not required to make reciprocal compensation payments to other LECs that terminate calls handed-off to them by one of the Verizon operating companies, the Commission will have in effect insulated and protected Verizon against this competitive loss, thereby undermining fundamentally the basis for competition in the local telephone service business. If Verizon and other ILECs know that the Commission will ultimately bail them out when they lose business to a rival, they will have no incentive affirmatively and aggressively to compete with anybody.

17. The FCC has established two — and only two — distinct models for the sharing of revenues among connecting carriers when more than one carrier participates in handling a given telephone call. The two models are (1) the local call model, and (2) the IXC/access charge model.

18. Under the local call model, the originating carrier collects payment for the call from the originator of the call and compensates the terminating carrier either through explicit payments of reciprocal compensation or "in kind" payments under a bill-and-keep settlement arrangement. This method of compensation is appropriate because, while the originator of the call is a *customer* of the terminating LEC in economic terms, as discussed above, in practical terms the caller has no direct business relationship with the terminating LEC. Simple practical efficiency dictates that the terminating LEC receive its compensation via payments

from the originating LEC, as opposed to setting up an elaborate and expensive multi-LEC clearing/billing arrangement, so that every end user could theoretically be directly billed by any LEC whose subscribers might ever be called by that end user. Reciprocal compensation indirectly, but economically properly, gets payment from the end user/customer to all of the LECs that are involved in carrying the call, at a much lower cost and a much higher customer "transparency" than any alternative arrangement could accomplish.

19. Under the IXC/access charge model, the interexchange carrier (IXC) collects the payment for the call and compensates the originating and terminating LEC through switched access charge payments made to each LEC. Here, the customer contracts with the IXC for long distance service, and the IXC remits switched access payments to the participating (originating and terminating) LECs for their work in handling the call. The reason why the IXC, in this case, collects the total revenue for the call and remits access payments to the originating and terminating LEC is purely one of convenience. The calling party is, for purposes of economic analysis, a customer of both LECs and of the IXC, and as such could, theoretically, have made direct payments to each entity. Such an arrangement would obviously raise the transaction costs associated with long distance calling, and for that reason is not being employed.[5]

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5. During the early discussions of access charges in the 1980-83 time frame, proposals for such direct billing by each carrier were raised by certain parties but were rejected by the FCC. But conceptually such an arrangement could well have been adopted. When I fly from Boston to Washington, I take a taxi from my home to Logan Airport in Boston, then take another taxi from National Airport in Washington to my ultimate destination. The taxis are

(continued...)

20. In principle, either type of compensation arrangement could be used for any type of call. However, with respect to calls directed to ISPs where the ISP's telephone number is within the calling party's local calling area, the FCC has determined — and on several separate occasions — that such calls are expressly *exempt* from access charge treatment and that these calls are to be billed and otherwise treated as local calls.[6] Accordingly, by this regulatory action, the Commission has required that the local call compensation model be used for calls to ISPs where the originating LEC and the terminating LEC are not the same. While Dr. Taylor attempts to argue for some sort of access charge treatment of ISP-bound calls,[7] the matter of the ISP exemption is not at issue in this proceeding, and as such Dr. Taylor's attempts to apply the access charge model to calls that the Commission has determined are to receive local treatment are inapposite.

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5. (...continued)
analogous to the LEC functions, the flight is analogous to the IXC function. There is no question but that I am a customer of both taxis and of the airline, and I make direct payments to each. Certain the airline could have "bundled" the two taxi rides into its Boston-to-Washington fare and given me vouchers for the two cab rides. That would have been directly analogous to the IXC access charge model. The point is that the payment mechanism does not in and of itself define or establish customer-to-provider relationships from an economic perspective

6. *See* In the Matter of MTS and WATS Market Structure, *Memorandum Opinion and Order*, Docket No. 78-72, 97 FCC 2d 682, 711-22 (1983) (*Access Charge Reconsideration Order*); In the Matter of Amendments of Part 69 of the Commission's Rules Relating to Enhanced Services Providers, CC Docket No. 87-215, *Order*, 3 FCC Rcd 2631 (1988) (*ESP Exemption Order*); In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, and End User Common Line Charges, CC Docket No. 96-262, 94-1 et al, *First Report and Order,* 12 FCC Rcd 15982 (1997) at ¶ 341-348.

7. Taylor Declaration at ¶ 5.

21. All that notwithstanding, Dr. Taylor's portrayal of the customer-to-LEC relationship[8] requires a response. Dr. Taylor posits a theory in which the originator of a local phone call is a customer of the originating LEC *except where the destination of the call is an ISP*. In that case, Dr. Taylor opines, the caller is the ISP's customer *and not the LEC's customer.*[9] Dr. Taylor apparently reaches this conclusion on the basis that the ISP, and not the end user who calls the ISP, is the *cost causer* with respect to the entire call. On this basis, he then contends, the ISP, and not the calling party, should pay the terminating LEC for its work in completing the call, and should then recover those terminating call costs from its ISP customers.

22. Incredibly, Dr. Taylor's analysis would have the effect of creating a distinction between ISPs and other businesses that deal with customers over the telephone and/or that deliver their services over the telephone. When considering an ordinary local telephone call to a destination other than an ISP, Dr. Taylor accepts that the calling party is the LEC's customer.[10] Thus Dr. Taylor would agree that when calling a pizza place, the caller is a customer of the LEC. He would presumably agree that the same thing is true where the caller contacts his or her bank for telephone banking services.[11] In all of these cases, he argues,

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8. Taylor Declaration at ¶s 13-23.

9. *Id.* at 10.

10. Taylor Declaration, at ¶ 16.

11. By telephone banking, I mean banking transactions conducted via a Touch-Tone based menu system, not via a dial-up connection to a modem.

the calling party is the cost causer and is thus appropriately responsible for payment for the call. According to Taylor, it is only where there is an ISP involved at the terminating end of the call that the call recipient (the ISP), and not the call originator, is responsible for the costs of the call, because the ISP is "acting as the customer of the ISP."[12]

23. It would seem that Dr. Taylor does not believe that users of the Internet are acting on their own free will; he seems to believe that they are somehow being compelled to call the ISP in a way that differs from the case where the same individuals call their bank or to order a pizza. This nonsensical theory has no basis in any sort of reality. Any business that places an ad in a newspaper or, for that matter, in the yellow pages in which it lists its phone number could, under Dr. Taylor's theory, be viewed as responsible for the costs of calls that they receive, since the purpose of the ad is to induce potential customers to call. While it is certainly true that a caller to an ISP is a customer of the ISP, in economic terms the caller is *also* a customer of the LEC from which the call was originated and of the LEC on which the call is terminated, as discussed above. There is no mutual exclusivity here. The ISP is no different in this respect than any other firm that does business over the telephone and/or that delivers its service via the telephone. In calling the ISP, the caller is engaging the services of one or more LECs to provide a connection to the ISP, and is also engaging the services of the ISP to reach the Internet.

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12. Taylor Declaration, at ¶ 19.

24. The artificial nature of Dr. Taylor's distinction between locally-rated calls placed to an ISP versus a non-ISP called party is further buttressed by the fact that it is in all cases that end-user who decides both when, how often, and for how long to contact the ISP that he or she has selected, and that the choice of ISP is itself a decision that is made by the end-user as an exercise of his or her own free will. As I have discussed, the customer is paying for the end-to-end call to the ISP whether it involves one or two LECs. The customer is separately paying the ISP for the Internet service that the ISP furnishes.

25. Dr. Taylor's distinction appears to rest on the notion that in the case of both the ISP and the IXC, the end user is trying to "get" somewhere else, whereas when the end user calls the bank, he has "gotten" where he wants to go.[13] However, this is sophistry, not economics. When my flight lands at National Airport, I still need to take a taxi or the Metro to "get" to where I want to go. The airline has no involvement in that decision or in the actual ground transportation service that I engage; in each instance I am a customer of the taxi or the DC Metro, not of the airline, once I get off the plane. The effect of Dr. Taylor's presentation is to conflate certain regulatory choices on the payments process — choices that were made on grounds other than economics — with the economic implications of those choices.

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13. Even this contrived distinction fails when the actual "facts on the ground" are considered. When I place a local call to my bank for telephone banking service, the call may be answered locally but the data bases with which I will interact may be located out-of-state. This situation is identical for relevant purposes to Dr. Taylor's view of ISP activity, yet he applies an entirely different standard to the cases of bank access vs. Internet access.

26. The Commission, in any event, need not reach Dr. Taylor's theories on customer relationships or cost causality because the Commission has previously determined that ISP-bound calls are to be treated as local calls. As such, the only settlement model that is applicable is reciprocal compensation. In order for the Commission to give any consideration to Dr. Taylor's position, it would first have to rescind the ISP access charge exemption.

ILECs contend that if they are required to pay reciprocal compensation, the rate should be based upon the CLECs' costs, and not the ILECs' costs.

27. While the ILECs' overarching position is that they should not be required to pay any reciprocal compensation for ISP-bound local calls, they go on to argue that, in the event that they are nevertheless required to compensate CLECs for their work in terminating ISP-bound traffic, the appropriate reciprocal compensation *rate* should be based upon the CLECs' costs rather than upon the ILECs' costs.

28. Dr. Taylor argues that ISP-bound calls are cheaper to complete than typical local calls, and that this lower cost should be reflected in a lower price to CLECs. He offers no factual support for this contention, and in any event his argument in this regard is partly wrong, and partly overstated.

29. Dr. Taylor and his ILEC clients advance this curious position because they believe that CLECs, having adopted a variety of network architecture and facilities practices that are designed specifically to accommodate large volumes of highly-concentrated inbound traffic,

can now terminate such calls at a cost that is below the *price* that the ILECs have established as *their* reciprocal compensation rate.

30. There are several problems with Dr. Taylor's claims. First, and most obvious, he has not actually submitted any specific evidence to support them. Under the structure set up by the 1996 Act, these sorts of claims should be addressed in the first instance in inter-carrier negotiations and, if those negotiations fail, in arbitrations. Nothing that has been submitted here supports any particular finding of any particular and categorical lower cost for delivering ISP-bound calls.

31. Second, as long as ISP-bound calls are treated for economic purposes as local calls — which is the effect of the ESP Exemption — that suggests that studies of the ILEC's cost of terminating local calls might need to be updated to reflect the most recent available data (presumably including, e.g., a somewhat longer average holding time than past studies have shown). It does not support creating a separate class of calls, with separately identified cost characteristics, based upon who the end users might choose to call.

32. Third, while there may be a number of ways to approach local call termination costs that go beyond a mere per-minute average — including, e.g., a rate structure consisting of both a call set-up charge and a subsequent per-minute charge, or a heavier reliance upon flat-rated capacity charges, as opposed to any sort of usage-sensitive charges — whatever rate structure is established should apply uniformly to all call termination rates. To use a specific

example, Dr. Taylor notes that when CLECs deliver calls to ISPs, that function does not make use of switch functionalities associated with originating usage. But that is equally true when an ILEC terminates a call to a law firm or government agency — switch functionalities associated with originating service should not properly be included in *any* call termination costs. I note in this regard that when the New York Public Service Commission addressed the question of compensation for ISP-bound calls in the summer of 1999, Bell Atlantic (now Verizon, nee NYNEX) proposed to lower its call termination rates by more than 30% across the board in order to remove these costs from the rates they originally submitted and argued for in 1996 and 1997.

33. This illustrates a broader point about requiring compensation for ISP-bound calls in the same manner as compensation for any other local calls. What the ILECs have learned from the battles over compensation for ISP-bound calls is that they should be careful what they wish for, because they might get it. ILECs had objected to bill-and-keep arrangements, then insisted upon high reciprocal compensation rates, because they thought that they would be net receivers of calls. Repeated and nearly uniform state rulings requiring compensation for ISP-bound calls have forced the ILECs to rethink those assumptions, leading to lower *reciprocal* compensation rates for all local calls, not just those bound for ISPs. The market, therefore, has effectively pressured ILECs to bring down the prices *that they will charge CLECs* for calls to the ILEC's customers. As these rates are forced down by the market-like economic pressure imposed by reciprocal compensation, the economics of serving customers who make calls, as opposed to receive them, become more favorable. In other words, when

ILECs know that they have to pay CLECs to deliver ISP-bound calls, and they know that they cannot isolate the rate applicable to such calls from the rate they receive for local calls they terminate, they have strong incentives to lower the general call termination rate, which enhances the prospects for broad-based competition for the local exchange business of all classes of customers.

34. The Commission, therefore, should be extremely skeptical of any proposal that would create some special, low rate for ISP-bound calls as a class. To the contrary, the Commission should require any local call termination regime — whether minute-based, call set-up-based, capacity-based, or time-of-day-based — to apply to all traffic classified as local to the originating caller, and let the chips fall where they may as to whether compensation for calls to ISPs as a class is higher or lower than average.

35. I cannot offer an opinion as to the veracity of the ILECs' factual claims as to the relative magnitudes of CLEC and ILEC call termination costs; clearly, the ILECs have advanced no factual support for such contentions. However, if in fact CLECs have been able to adopt various efficiency measures that work to reduce their costs below those of the ILECs, that by itself in no way justifies reducing the reciprocal compensation rate to equal the allegedly lower CLEC cost levels.

36. If CLEC costs are lower than the costs that ILECs currently incur in terminating local calls, there is no obvious reason why ILECs themselves could not adopt precisely the

same efficiency measures that the CLECs have implemented so as to bring their own costs down to these lower levels. Indeed, inasmuch as ILECs — particularly BOCs — by virtue of their large volume purchases of equipment and transmission facilities, are able to acquire the same types of equipment that CLECs have purchased *at an even lower cost than those confronted by CLECs*, *efficient* ILEC terminating call costs should actually be *considerably lower* than even the most efficient CLEC.[14] That they are not — that is, that the ILECs have failed to adopt the very same network modifications that CLECs have employed — is a management decision entirely within the control of the ILECs, and is certainly not something for which they should now be rewarded.

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14. Testimony offered by SBC in the 1998 Connecticut DPUC proceeding to consider the Joint Application of SBC and SNET for approval of their merger indicated that following the merger SNET's costs of equipment purchases would decrease substantially due to the increased purchasing power of SBC relative to that of a stand-alone SNET. Specifically, SBC indicated it has "learned from the SBC/Pacific Telesis merger that scope and scale, especially in the purchasing area, are tangible and significant." *Joint Application of SBC Communications, Inc. And Southern New England Telecommunications Corporation for Approval of a Change of Control*, Connecticut Department of Public Utility Control (DPUC) Docket No. 98-02-20, SBC Response to MCI-4, Exhibit A, "Introduction and Opening Comments of Don Kiernan", January 5, 1998, SBCSNET004573. SBC's Chief Financial Officer also stated that "we know that SNET pays over 20 percent more for purchases of switching and transport equipment than we do at SBC." *Id.* SBC also indicated that the savings experienced in contract negotiations to date for the combined SBC/Pacific Telesis "tend to support the consultants' estimates" during the SBC/PTG merger discussions of procurement savings (expense and capital) in the 7%-10% range. *Id.*, SBC Response to OCC-12.

37. In competitive markets, prices will ultimately tend to decrease as firms increase their overall productivity and adopt efficiency measures that lower their costs. In the instant situation, however, the ILECs have elected *not* to pursue the same cost-reducing techniques that they allege CLECs have adopted, and are asking the Commission to *protect them* against the competitive market losses that would (otherwise) inevitably follow.

38. Although ILECs attempt to impute illegitimacy to CLECs that have elected to specialize in serving customers with high inward calling requirements, the admission by Verizon and others that specialized network architectures and equipment have enabled CLECs to offer inward services at lower cost undermines this portrayal at its most fundamental level.[15] Nothing in the *Telecommunications Act of 1996* or any subsequent FCC rulemaking requires that CLECs be mere clones of ILECs, albeit smaller in overall size. Indeed, market specialization is expressly encouraged by provisions in Sections 251 and 252 that permit CLECs to utilize ILEC facilities in combination with their own to create the specific mix of services that each elects to offer in the market.

39. No economic or regulatory policy of which I am aware supports the notion that a new competitor should be barred from seeking the business of customers that receive more calls than they make, or vice versa. To the contrary, the purpose of the 1996 Act is to enable

15. See, e.g., Verizon Comments at 23-25.

and foster competition in all telecommunications markets. It follows as a policy matter that new competitors should be free to seek whatever customers they can serve efficiently.

40. Reciprocal compensation works to create a market for the function of terminating calls. In the absence of CLECs serving firms that receive calls, the sole supplier will be the ILEC just as, in fact, ILECs had previously monopolized the business of providing ISPs with connections to the PSTN prior to the 1996 Act. In that situation, the amount of resources that society will expend overall on terminating calls will be the amount of resources that it takes for the ILEC to perform that function. If a CLEC is unable to perform that function as sefficiently as the ILEC, then it will tend to avoid customers who receive calls, and properly so; if it is less efficient than the ILEC, then society wastes resources by having that CLEC perform that function. On the other hand, if a CLEC can perform that function *more efficiently* than the ILEC, then it will seek out customers who are net receivers of calls, including firms such as pizza delivery services, travel agencies, credit card verification firms, and ISPs. The more efficiently the CLECs perform this function when compared to the ILECs, the more money they will make by winning over customers who receive calls, and the more society is served by CLECs actually taking over this function.

41. For that reason, the FCC has expressly required that reciprocal compensation rates be, in fact, symmetric as between the ILEC and the CLEC – and that they be based upon the ILEC's forward-looking costs — unless the CLEC can demonstrate that its forward-looking

from its residence customers whether calls to ISPs are completed by the ILEC or are handed off to a CLEC. If the ILEC could shed some of the costs associated with such calls by virtue of CLECs serving ISPs, but with no compensation to the CLECs for their work, then the ILEC's profit margins from residence customers would increase. This would presumably make residence customers marginally more profitable to serve, and marginally more attractive to CLECs as well.

49. But the same could be said about compensation for calls to any other type of firm that receives a lot of traffic. It seems a safe assumption that most calls to pizza delivery services are from residence customers. The commercial success of firms like Domino's and Papa John's suggests that, on average, residence customers make a lot of calls to pizza delivery services. Paying compensation on those calls (where calls terminating at the pizza delivery service are provided by a CLEC) erodes the profitability of serving residence customers. Therefore, under Dr. Taylor's argument, the Commission should not only ban compensation for ISP-bound calls in the name of promoting competition for residence customers, it should also ban compensation for pizza-bound calls as well, since the obligation to pay such compensation "distorts" competition for residence customers in exactly the same way that Dr. Taylor asserts occurs by paying compensation for ISP-bound calls. Similarly, it seems a fair assumption that small business customers are major users of dial-up credit card verification services (larger retail outlets will use private lines for this function). Dr. Taylor's logic indicates that, to encourage competition for small business customers, the Commission should ban compensation for calls to credit card verification services as well. Indeed, there is

no logical limit to Dr. Taylor's argument: to encourage local competition to the maximum degree possible, the Commission should simply eliminate reciprocal compensation entirely, since payment of such compensation, on his theory, necessarily "distorts" competition for any customer who makes a lot of calls to any location where reciprocal compensation applies.

50. There is, however, a much more basic problem with Dr. Taylor's economic argument than the fact that it proves too much. His argument ignores a fundamental law of economics *viz.*, "there's no such thing as a free lunch." It is true that over the last several years some CLECs have focused their efforts upon serving ISPs (and other entities that receive a lot of calls). That suggests that CLECs have found ways to provide the call termination function at a lower cost than the ILECs pay in reciprocal compensation charges, as measured by arbitrated and/or negotiated reciprocal compensation rates.[18] But there can be no doubt that CLECs have focused upon ISPs as customers because they have been, or at least because they expect to be, compensated for their considerable efforts in switching an enormous volume of incoming traffic (in the aggregate) to ISPs that purchase (in the aggregate) an enormous number of local exchange lines. The lines themselves must be priced at a level that is competitive with the ILEC's prices for similar lines — that is, business local exchange lines that are not priced to recover incoming usage. CLECs may be more efficient at providing

18. In some cases, the ILEC-dictated reciprocal compensation rate may actually exceed the ILEC's costs. This might have occurred, for example, where the ILEC anticipated that it would terminate more calls than it would hand-off to CLECs for termination. However, since the rate was *supposed* to have been set at cost, the CLEC was entitled to rely upon that rate as an indication of the target cost level that it would be required to beat in order to operate profitably.

that function, too, but the fact remains that if CLECs cannot get paid *by the ILEC* for the function of delivering ILEC-originated calls to ISPs, then CLECs will promptly take steps that will make their services less attractive to ISPs (notably, raising prices to a level that *would* recover incoming usage costs from them). This price increase will inexorably drive ISPs back to ILECs, who would then (again) be saddled with the costs — their costs — of delivering ISP-bound calls. That outcome would also undermine competition in the local service market.

51. In short, the costs of delivering calls to ISPs are real, and cannot be made to disappear by manipulating the rules for reciprocal compensation. If CLECs can perform the call delivery function more efficiently than the ILEC, and the calls are subject to compensation, then CLECs will compete for, and win, ISPs' business, and ILECs will incur call termination costs associated with calls their end users make via reciprocal compensation. If these calls are not subject to compensation, then CLECs will avoid, as opposed to compete for, ISPs as customers, and the ILECs will incur the costs of delivering calls to ISPs because they will serve ISPs again.

ILECs have generally shown little interest in competing for ISP-bound traffic, and have effectively ceded this market segment to CLECs.

52. A good deal of the ILECs' present frustration with the reciprocal compensation requirement stems from their own decisions not to actively pursue the ISP market. In fact, many ISPs found that the services being offered to them by ILECs were insufficient to satisfy

their needs. ILECs, for example, do not permit ISPs (other than their own affiliates) to co-locate servers and routers in their central offices, requiring that an ISP purchase or lease space (usually nearby) and pay for telecommunications transport facilities to interconnect its equipment with the ILEC central office. Many CLECs, on the other hand, affirmatively offer and encourage ISP co-location, and charge relatively low prices for the space involved.

53. ISPs generally want to offer local call coverage to as broad a geographic area as possible. ILECs require ISPs to take service in each and every exchange in which they desire a local call presence or pay costly foreign-exchange mileage rates to extend service beyond an exchange area in which the ISP has a physical presence; CLECs have developed methods of offering broad geographic coverage without requiring such extensive ISP network deployment.

54. For these and other reasons, ISPs may prefer to take service from CLECs rather than "make do" with the decidedly inferior service that ILECs are prepared to offer. There is, of course, no economic or legal barrier preventing the ILECs from competing aggressively for ISP business; they have simply decided not to do so.

55. One entirely plausible explanation for this decision is the contemporaneous attempt by ILECs to escape their reciprocal compensation payment requirements. If the ILECs are successful in this effort, CLECs serving ISPs and other inbound service customers will be forced out of business. ILECs would then be in a position to recapture substantially all of the

ISP business without having to make the various accommodations and capacity investments that CLECs that serve ISPs will generally require. ILECs will also maintain their price levels at pre-competition levels, forcing ISPs to once again pay monopoly prices and to put up with the other infirmities of the ILECs' services. Internet users, incidentally, will be seriously disserved by such an outcome; they will have greater difficulty reaching their ISP, and local call access will no longer be available in numerous smaller communities.

Conclusion

56. Adoption of the ILECs' positions on reciprocal compensation — either barring it outright or requiring that ISP-bound traffic be singled out for greatly reduced rates — will eliminate competition in this segment and in so doing protect and vindicate the ILECs' decision not to aggressively compete for ISP business. No possible public interest goal is served by that outcome. The Commission should reaffirm the applicability of reciprocal compensation for ISP-bound calls, and at the same rate that applies for "ordinary" inbound calls that are handled by ILECs or CLECs.

The foregoing statements are true and correct to the best of my knowledge, information and belief.

LEE L. SELWYN

Sworn to before me this 3rd day of August, 2000

Ellen B Wasserman

Notary Public

My commission expires 3/31/06.

Attachment 1

Statement of Qualifications

DR. LEE L. SELWYN

Dr. Lee L. Selwyn has been actively involved in the telecommunications field for more than twenty-five years, and is an internationally recognized authority on telecommunications regulation, economics and public policy. Dr. Selwyn founded the firm of Economics and Technology, Inc. in 1972, and has served as its President since that date. He received his Ph.D. degree from the Alfred P. Sloan School of Management at the Massachusetts Institute of Technology. He also holds a Master of Science degree in Industrial Management from MIT and a Bachelor of Arts degree with honors in Economics from Queens College of the City University of New York.

Dr. Selwyn has testified as an expert on rate design, service cost analysis, form of regulation, and other telecommunications policy issues in telecommunications regulatory proceedings before some forty state commissions, the Federal Communications Commission and the Canadian Radio-television and Telecommunications Commission, among others. He has appeared as a witness on behalf of commercial organizations, non-profit institutions, as well as local, state and federal government authorities responsible for telecommunications regulation and consumer advocacy.

He has served or is now serving as a consultant to numerous state utilities commissions including those in Arizona, Minnesota, Kansas, Kentucky, the District of Columbia, Connecticut, California, Delaware, Maine, Massachusetts, New Hampshire, Vermont, New Mexico, Wisconsin and Washington State, the Office of Telecommunications Policy (Executive Office of the President), the National Telecommunications and Information Administration, the Federal Communications Commission, the Canadian Radio-television and Telecommunications Commission, the United Kingdom Office of Telecommunications, and the Secretaria de Comunicaciones y Transportes of the Republic of Mexico. He has also served as an advisor on telecommunications regulatory matters to the International Communications Association and the Ad Hoc Telecommunications Users Committee, as well as to a number of major corporate telecommunications users, information services providers, paging and cellular carriers, and specialized access services carriers.

Dr. Selwyn has presented testimony as an invited witness before the U.S. House of Representatives Subcommittee on Telecommunications, Consumer Protection and Finance and before the U.S. Senate Judiciary Committee, on subjects dealing with restructuring and deregulation of portions of the telecommunications industry.

In 1970, he was awarded a Post-Doctoral Research Grant in Public Utility Economics under a program sponsored by the American Telephone and Telegraph Company, to conduct research on the economic effects of telephone rate structures upon the computer time sharing industry. This work was conducted at Harvard University's Program on Technology and Society, where he was appointed as a Research Associate. Dr. Selwyn was also a member of the faculty at the College of Business Administration at Boston University from 1968 until 1973, where he taught courses in economics, finance and management information systems.

Dr. Selwyn has published numerous papers and articles in professional and trade journals on the subject of telecommunications service regulation, cost methodology, rate design and pricing policy. These have included:

"Taxes, Corporate Financial Policy and Return to Investors"
National Tax Journal, Vol. XX, No.4, December 1967.

"Pricing Telephone Terminal Equipment Under Competition"
Public Utilities Fortnightly, December 8, 1977.

"Deregulation, Competition, and Regulatory Responsibility in the Telecommunications Industry"
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